

Late Payment Penalties

County Treasurers Annual Conference
2013

Applicable Guidance

- IC 6-1.1-37-10
- SBOA Policy Memo, July 31, 2013
- IC 6-1.1-37-10.1
- IC 6-1.1-37-10.7

When Payment Is Considered Timely

1. If the due date falls on a Saturday, Sunday, national holiday recognized by federal government, or a statewide holiday, payment is timely if performed by the next succeeding day that is not a Saturday, Sunday, or one of those holidays.

When Payment Is Considered Timely

2. If the payment is deposited in U.S. first class mail:
 - Properly addressed to the principal office of the county treasurer;
 - With sufficient postage; and
 - Postmarked by the U.S. Postal Service as mailed on or before the due date

Postmarked does not mean the date printed by a postage meter that affixes postage.

If a payment is mailed through U.S. mail and is physically received after the due date without legible correct postmark, the person who mailed the payment is considered to have made the payment timely if the person can show by reasonable evidence that the payment was deposited on or before the due date.

When Payment Is Considered Timely

3. If the payment is deposited with a nationally recognized express parcel carrier and is:
 - Properly addressed to the principal office of the county treasurer; and
 - Verified by the express parcel carrier as
 - Paid in full for final delivery; and
 - Received by the express parcel carrier on or before the due date;

When Payment Is Considered Timely

4. If the payment is deposited to be mailed through U.S. registered mail, U.S. certified mail, or U.S. certificate of mailing:
 - Properly addressed to the principal officer of the county treasurer;
 - With sufficient postage; and
 - With a date of registration, certification, or certificate, as evidenced by any record authenticated by the U.S. Postal Service, on or before the due date

When Payment Is Considered Timely

5. If the payment is made by electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

When Payment Is Considered Timely

If a payment is sent via U.S. mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

- Can show by reasonable evidence that the payment was deposited in the U.S. mail or express carrier on or before the due date; and
- Makes a duplicate payment within 30 days after the date the person is notified that the payment was not received.

When To Add Late Payment Penalty

IC 6-1.1-37-10(a) states: “Except as provided in sections 10.1 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency....”

Penalty Amount

The penalty is equal to an amount determined as follows:

(1) If

- An installment of real property taxes is completely paid on or before the date 30 days after the due date; and
- The taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

the amount of the penalty is equal to 5% of the amount of delinquent taxes.

(2) If

- An installment of personal property taxes is completely paid on or before the date 30 days after the due date; and
- The taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to 5% of the amount of delinquent taxes.

Penalty Amount

If (1) or (2) from the previous slide do not apply, the amount of the penalty is equal to 10% of the amount of delinquent taxes.

Timing of Applying Current Year Penalty

- Apply penalty as of the day after the due date for the installment if not completely paid.
- Use the 5% and 10% statutory guidance.
- If the parcel is originally eligible for the 5% rate as of the day after the due date, an additional 5% penalty for a total of 10% is to be added on the 31st day after the due date for those parcels with installments that are not completely paid on the 30th day after the due date.

Late Payment Penalty Statute For Prior Year Delinquencies

IC 6-1.1-37-10(b)

With respect to property taxes due in 2 equal installments, on the day immediately following the due dates of the 1st and 2nd installments in each year following the year of initial delinquency, an additional penalty equal to 10% of any taxes remaining unpaid shall be added.

Timing of Applying Penalties on Prior Year Delinquencies

- Penalties are applied to the unpaid tax at each 1st and 2nd installment due date that the prior year tax is not fully paid.
- Reminder: The amount is 10%.

SBOA Policy Memo - July 31, 2013

- It is our position that special assessments are to be treated as if they are a part of the installment of property taxes mentioned in IC 6-1.1-37-10(a) that if not completely paid on or before the due date, will result in a late payment penalty.
- Therefore, if either the elements of IC 6-1.1-37-10(a)(1) or IC 6-1.1-37-10(a)(2) are met the total delinquent installment amount (including special assessment) is eligible for the 5% penalty.
- Likewise, if the elements of sections 10(a)(1) or 10(a)(2) are not met the entire installment amount (including special assessment) is subject to the 10% penalty.

Late Payment Penalty Exception

IC 6-1.1-37-10.1 (now in the past)

The county treasurer of a county where this applies shall waive all interest and penalties added before January 1, 2012 to a delinquent property tax installment or special assessment on a parcel of real property if:

- (1) All of the delinquent taxes and special assessments were first due and payable before Jan. 1, 2012; and
- (2) Before July 1, 2013, the taxpayer has paid:
 - All of the delinquent taxes and special assessments described in (1) above; and
 - All of the taxes and special assessments that are 1st due and payable on the parcel after Dec. 31, 2011 and before July 1, 2013 (and interest and penalties on these taxes and special assessments)

Late Payment Penalty Exception

IC 6-1.1-37-10.7 (Death in the family)

The county treasurer shall do the following:

1. Waive the late payment penalty if the taxpayer or their representative:
 - Petitions the treasurer to waive the penalty not later than 30 days after the due date of the installment subject to penalty; and
 - Files with the petition written proof that during the 7 day period ending on the due date, the taxpayer or an immediate family member of the taxpayer died.
2. Give written notice to the taxpayer or representative by mail of the treasurer's determination on the petition not later than 30 days after the petition is filed with the treasurer.

Late Payment Penalty Exception

- Immediate family member means an individual who:
 - Is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and
 - Resides in the taxpayer's home
- The DLGF has prescribed the form of the petition and the type of written proof required
- A taxpayer or their representative may appeal a determination of the county treasurer to deny a waiver by filing notice within 45 days after the treasurer gives notice of the determination. The appeal is processed as are other appeals per IC 6-1.1-15.

We are not aware of other
exceptions to the requirement for
you to add late payment penalties